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Attorneys for Defendant Whaleco Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

ELI SILVA, on behalf of himself)
and all others similarly situated,)
)
Plaintiff,)
)
v.)
)
WHALECO, INC., d/b/a TEMU,)
)
Defendant.)
)
)

Case No. 3:24-cv-02890-SK

**DECLARATION OF STEVEN N. FELDMAN
IN SUPPORT OF JOINT STIPULATION
SETTING BRIEFING SCHEDULE AND
CONTINUING CASE MANAGEMENT
CONFERENCE**

[Civil Local Rule 6-2]

Assigned to: Honorable Sallie Kim

1 I, Steven N. Feldman, declare as follows:

2 1. I am a partner at the law firm of Latham & Watkins LLP, attorneys for Defendant
3 Whaleco Inc. I am an attorney in good standing in the state of California. I am making this
4 Declaration in support of the parties' Joint Stipulation Setting Briefing Schedule ("Joint
5 Stipulation"), and have personal knowledge of the facts set forth below; if called upon to do so, I
6 can and will competently testify thereto.
7

8 2. Defendant, after reviewing the allegations in the Complaint and conducting an
9 initial investigation of the claims therein, has determined that it will move to compel arbitration
10 on the ground that Plaintiff's claims are subject to a mandatory arbitration provision. Defendant
11 will also move to transfer venue pursuant to a forum selection provision. Plaintiff intends to oppose
12 those motions. If the motions are unsuccessful, Defendant intends to file a motion to dismiss,
13 including under Rule 12(b), which Plaintiff will oppose.
14

15 3. The parties have conferred and agree that, while the motion to compel arbitration
16 and motion to transfer venue are pending, it would be premature to brief and litigate a motion to
17 dismiss. To that end, in the interest of promoting the most efficient use of the parties' and the
18 Court's resources, the parties have agreed (1) to brief and resolve Defendant's motion to compel
19 arbitration and motion to transfer venue before litigating any motion to dismiss, and (2) to postpone
20 the initial case management conference, which is currently scheduled for August 12, 2024, to give
21 the Court a chance to rule on Defendant's motion to compel arbitration and motion to transfer
22 venue before holding the conference.
23

24 4. The parties have therefore agreed to the following briefing schedule:

25 a. Defendant shall file its motion to compel arbitration and motion to transfer venue
26 on or before July 15, 2024.

27 b. Plaintiff shall file any oppositions within thirty (30) days of Defendant's motions.
28

- c. Defendant shall file any replies within twenty-one (21) days of Plaintiff's oppositions.
- d. Any hearing on Defendant's motion to compel arbitration and motion to transfer venue shall be held as soon as the Court's calendar allows.
- e. Defendant need not respond to the Complaint while its motion to compel arbitration and motion to transfer venue are pending. If the Court denies Defendant's motions, or upon the exhaustion of Defendant's appellate rights concerning such motions, whichever is later, Defendant shall file its motion to dismiss within thirty (30) days thereafter; Plaintiff shall file any opposition twenty-one (21) days thereafter; and Defendant shall file any reply fourteen (14) days thereafter.
- f. Any hearing on the motion to dismiss shall be held as the Court's calendar allows.
- g. The initial case management conference shall be continued and rescheduled at the motion to dismiss hearing, as the Court's calendar allows.

5. To date, the parties have not stipulated to any extensions of time.

6. The parties therefore agree and stipulate to the above dates.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 21, 2024.

DATED: June 21, 2024

Respectfully submitted,

By: /s/ Steven N. Feldman
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